

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)

Plaintiff)

vs.)

PHILIP MORRIS, INCORPORATED, et al.,)

Defendants.)

Civil Action No. 99-CV-2496 (GK)

**RESPONSE OF BROWN & WILLIAMSON TOBACCO CORPORATION TO THE
UNITED STATES' FIRST SET OF INTERROGATORIES TO DEFENDANTS**

Pursuant to Order No. 37, Eighth Case Management Order dated November 17, 2000 ("CMO8") and Order No. 39 dated December 1, 2000, Defendant Brown & Williamson Tobacco Corporation, individually and as successor by merger to The American Tobacco Company ("Brown & Williamson"), responds and objects to Plaintiff United States' (the "Plaintiff") First Set of Interrogatories to Defendants (the "Interrogatories").

The Complaint lists as defendants both "Brown & Williamson Tobacco Corporation, directly and as successor by merger to American Tobacco Company" and "American Tobacco Company, directly and as successor to the tobacco interests of American Brands, Inc." The Complaint is confusing because it twice lists The American Tobacco Company as a defendant, which, as the Plaintiff knows, no longer exists as a separate corporate entity. This statement clarifies Brown & Williamson Tobacco Corporation's responses to the Interrogatories as to The American Tobacco Company as listed in the Complaint.

The American Tobacco Company was a Delaware corporation that was merged into Brown & Williamson Tobacco Corporation on February 28, 1995. By virtue of the merger,

Brown & Williamson Tobacco Corporation succeeded to the liabilities of The American Tobacco Company to the extent provided by the corporation laws of the State of Delaware.

Prior to December 22, 1994, a Delaware corporation named American Brands, Inc. owned all the stock of The American Tobacco Company. On December 22, 1994, Brown & Williamson Tobacco Corporation purchased the stock of The American Tobacco Company from the Delaware Corporation named American Brands, Inc.

Accordingly, Brown & Williamson Tobacco Corporation responds to these Interrogatories on behalf of Brown & Williamson Tobacco Corporation (1) individually, *i.e.*, with respect to any actions of Brown & Williamson Tobacco Corporation itself, and (2) as the successor by merger to The American Tobacco Company, *i.e.*, with respect to those liabilities of The American Tobacco Company succeeded to by virtue of the merger of The American Tobacco Company into Brown & Williamson Tobacco Corporation. To the extent that Plaintiff seeks to assert claims relating to some other entity, these Responses to the Interrogatories are not on behalf of such other entity.

RECURRING OBJECTIONS

Privileged and Otherwise Protected Information and Documents

1. Brown & Williamson objects to these Interrogatories on the grounds that they seek information or the disclosure of documents protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege, exemption or immunity. Inadvertent disclosure of any information or documents shall not be a waiver of any claim of privilege, work product protection or any other exemption.

2. Brown & Williamson objects to these Interrogatories to the extent they seek information protected from discovery by privileges arising from the First and Fourteenth Amendments of the United States Constitution, the constitutions of any applicable states, and/or the *Noerr-Pennington* and/or Separation of Powers Doctrines.

Trade Secrets

3. Brown & Williamson objects to these Interrogatories to the extent they seek the disclosure of confidential, proprietary, trade secret or highly sensitive information or documents unless such disclosure is in accordance with the provisions of Order No. 7 dated March 3, 2000 and Order No. 36 dated November 15, 2000.

Form and Scope

4. Brown & Williamson objects to these Interrogatories to the extent that they attempt to impose obligations in addition to those imposed or authorized by the Federal Rules of Civil Procedure, the Local Rules of this Court, CMO8, Order No. 39, or any other Order entered in this case.

5. Brown & Williamson objects to these Interrogatories on the grounds that they are overly broad, unduly burdensome, and seek information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that they seek information regarding the manufacture, advertising, marketing, promotion and sale of cigarette products not sold in the United States of America.

Preemption

6. Brown & Williamson objects to these Interrogatories on the grounds that Plaintiff seeks information regarding the advertising, marketing or promotion of cigarettes after July 1, 1969, as such information relates to claims that are preempted by the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-41. *See Cipollone v. Liggett Group, Inc.*, 505 U.S. 504 (1992).

Prior Smoking & Health Litigation Discovery Produced to Plaintiff

7. Brown & Williamson objects to these Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent that they seek to impose upon Brown & Williamson the burden of engaging in a massive new or duplicative document review to provide information requested in these Interrogatories. Specifically, Brown & Williamson has placed more than 7,600,000 pages of documents that relate to issues of smoking and health in the document depository in Minneapolis, Minnesota (the "Minnesota Depository") and on the Internet through the address www.brownandwilliamson.com. On August 25, 2000, Brown & Williamson produced to the Plaintiff data tapes, including document images and index data, pursuant to paragraph 6 of the Sixth Case Management Order dated February 26, 2000 ("CMO6"). Plaintiff may identify and view documents which contain information requested in these Interrogatories by utilizing the indices contained on the data tapes by searching for documents produced in response to specific Minnesota Request Numbers, by searching for terms mentioned within specific Interrogatories, or by searching in any of the 27 fields on the index (e.g., Author, Recipient, Date, etc.)

Third Party

8. Brown & Williamson objects to these Interrogatories to the extent that they seek information in the possession, custody, or control of third parties. Such Interrogatories are overly broad and unduly burdensome. Responses to these Interrogatories are by and for defendant Brown & Williamson only.

Definitions

9. Brown & Williamson objects to Plaintiff's definition of the term "addiction" on the grounds that it is overly broad, vague and ambiguous. There is no consensus in the scientific community regarding the use of the word "addiction" or the criteria that would establish whether a substance or activity is "addictive" or whether a particular individual is "addicted." In addition, Plaintiff's own definition and use of the word "addiction" has changed significantly over the time period covered by the Complaint in this case, and various scientists, officials and employees of Plaintiff have used the terms "addiction" in ways different from and contradictory to the definition announced by Plaintiff from time to time.

10. Brown & Williamson objects to the phrase "each person" as used throughout these Interrogatories as being overly broad, unduly burdensome and vexatious. Plaintiff's definitions of the terms "each" and "person" would require Brown & Williamson to identify every person and/or entity for a fifty year period who has any knowledge of or was in any way involved with the subject matter of these Interrogatories without regard for the amount, relevance or materiality of their information or involvement. As such, the burden and expense of obtaining and producing the information sought substantially outweighs any probative value that information may have in resolving issues in this litigation.

11. Brown & Williamson objects to the phrase "each document" as used throughout these Interrogatories as being overly broad, unduly burdensome, harassing and oppressive. These Interrogatories seek to impose upon Brown & Williamson the burden of exhaustively searching all of its files and every department in an attempt to locate each and every document that might potentially be responsive to an Interrogatory. Brown & Williamson will identify information responsive to these Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure.

12. Brown & Williamson objects to Plaintiff's definition of the terms "identity" and "identify" as used throughout these Interrogatories as being overly broad, unduly burdensome, harassing and oppressive. Brown & Williamson will identify information responsive to these Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure.

13. Brown & Williamson objects to Plaintiff's definition of the phrase "less-hazardous cigarette" on the grounds that it is vague and ambiguous. There is no agreement as to whether a "safer cigarette" exists or is technologically possible or commercially feasible. It has been alleged, however, that certain smoke constituents or groups of constituents are associated with adverse health effects to smokers and that reducing or eliminating those constituents would result in a "safer cigarette." Furthermore, Brown & Williamson objects to Plaintiff's definition to the extent it refers to cigarettes designed or intended to reduce the risk of fire on the grounds it is overly broad, unduly burdensome, contrary to usage within the tobacco industry and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence.

14. Brown & Williamson objects to Plaintiff's definition of the term "marketing" on the grounds that it is overly broad, unduly burdensome, and seeks documents that are neither

relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it refers to documents which do not concern the marketing, advertising, and promotion of cigarettes manufactured by Brown & Williamson for sale in the United States. In addition, Brown & Williamson objects to Plaintiff's definition of the term "marketing" on the grounds that it is vague and ambiguous because it seeks "all activities relating to cigarettes that are intended to or are likely to be seen or heard by members of the public, including, but not limited to, advertising" but "should not be construed to include: ... (c) advertising."

15. Brown & Williamson objects to the phrase "smoking and health" as used in these Interrogatories on the grounds that it is vague, ambiguous, and undefined. Brown & Williamson defines the phrase "smoking and health" to mean the relationship between cigarette smoking and the diseases associated with the inhalation of or exposure to cigarette smoke and the physiological and pharmacological effects of nicotine. Brown & Williamson does not define "smoking and health" to include information related to either firesafe cigarettes or environmental tobacco smoke.

16. Brown & Williamson objects to term "tobacco" as used in these Interrogatories on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that references to "tobacco" are meant to refer to anything other than cigarettes.

Instructions

17. Brown & Williamson objects to Plaintiff's Instruction Number 1 to the extent it purports to require Brown & Williamson to search the files of third parties on the grounds that such Interrogatories are overly broad and unduly burdensome.

18. Brown & Williamson objects to Plaintiff's Instruction Number 5 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous to the extent it purports to require Brown & Williamson to identify "[e]ach Document containing information relating to such fact, circumstance, condition, or thing" and "[identify] each Person having personal knowledge of each Document containing information relating to such fact, circumstance, condition, or thing" in response to Interrogatories which request Brown & Williamson to "explain in detail," "describe in detail," "state each fact," or "state all facts." Brown & Williamson assumes that this Instruction would also apply to Interrogatories in which Plaintiff requests Brown & Williamson to "describe all facts." Brown & Williamson will identify information responsive to these Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure.

Supplementation

Brown & Williamson's objections as set forth herein are based upon information presently known to Brown & Williamson. Brown & Williamson reserves the right, consistent with the Federal Rules of Civil Procedure or orders of this Court: (a) to rely on any facts, documents or other evidence which may develop or subsequently come to its attention; (b) to assert additional objections or supplemental responses should Brown & Williamson discover additional information or grounds for objections; and/or (c) to supplement or amend these responses at any time.

These Recurring Objections are incorporated into the following Specific Objections to these Interrogatories, and the Recurring Objections shall be deemed continuing as to each Interrogatory and are not waived, or in any way limited, by the Specific Objections.

Plaintiff incorrectly lists The American Tobacco Company as a separate defendant in the Specific Interrogatories. In addition, the Amended Complaint lists as defendants both "Brown & Williamson Tobacco Corporation, directly and as successor by merger to American Tobacco Company" and "American Tobacco Company, directly and as successor to the tobacco interests of American Brands, Inc." The Amended Complaint is confusing because it twice lists The American Tobacco Company as a defendant, which, as the Plaintiff knows, no longer exists as a

separate corporate entity. To reiterate its position on this issue, Brown & Williamson provides the following information.

The American Tobacco Company was a Delaware corporation that was merged into Brown & Williamson Tobacco Corporation on February 28, 1995. By virtue of the merger, Brown & Williamson Tobacco Corporation succeeded to the liabilities of The American Tobacco Company to the extent provided by the corporation laws of the State of Delaware.

On December 22, 1994, Brown & Williamson Tobacco Corporation purchased the stock of The American Tobacco Company from the Delaware Corporation named American Brands, Inc. which owned all the stock of The American Tobacco Company.

Accordingly, Brown & Williamson Tobacco Corporation responds to Plaintiff's Specific Interrogatories (1) individually, *i.e.*, with respect to any actions of Brown & Williamson Tobacco Corporation itself, and (2) as the successor by merger to The American Tobacco Company, *i.e.*, with respect to those liabilities of The American Tobacco Company succeeded to by virtue of the merger of The American Tobacco Company into Brown & Williamson Tobacco Corporation. To the extent that the Plaintiff seeks to assert claims relating to some other entity, this Response to Plaintiff's Specific Interrogatories is not on behalf of such other entity.

RECURRING OBJECTIONS

Privileged and Otherwise Protected Documents

1. Brown & Williamson objects to these Specific Interrogatories on the grounds that they seek the disclosure of documents or information protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege, exemption, or immunity. Inadvertent disclosure of

any documents or information shall not be a waiver of any claim of privilege, work product protection, or any other exemption.

Trade Secrets

2. Brown & Williamson objects to these Specific Interrogatories to the extent that they seek the disclosure of certain confidential, proprietary, trade secret, or other commercially protected information or documents. Brown & Williamson will disclose information or documents subject to the terms of the protective orders in this case.

Form and Scope

3. Brown & Williamson objects to these Specific Interrogatories to the extent that they attempt to impose obligations in addition to those imposed or authorized by the Federal Rules of Civil Procedure, the Local Rules of this Court, or the orders governing discovery in this case.

4. Brown & Williamson objects to these Specific Interrogatories on the grounds that they are overly broad, unduly burdensome, and seek information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that they seek information regarding the manufacture, advertising, marketing, promotion, and sale of cigarette products not sold in the United States of America.

5. Brown & Williamson objects to the term "tobacco" or "products" as used in these Specific Interrogatories on the grounds that they are overly broad, unduly burdensome, and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that references to "tobacco" or "products" are meant to refer to anything other than cigarettes or "cigarette-like products."

Prior Discovery

6. Brown & Williamson objects to these Specific Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent that they seek information or documents already disclosed to Plaintiff in response to previous discovery requests or other discovery obligations. Because the burden of deriving or ascertaining information contained in these prior discovery disclosures is substantially the same for the Plaintiff as it would be for Brown & Williamson, Brown & Williamson refers Plaintiff to these prior discovery disclosures pursuant to Rule 33(d) of the Federal Rules of Civil Procedure.

7. Brown & Williamson objects to these Specific Interrogatories to the extent that they are duplicative of previous discovery requests propounded in this case and, therefore, are harassing, vexatious, and unduly burdensome. Brown & Williamson incorporates its prior "Response Of Brown & Williamson Tobacco Corporation To The United States' First Set Of Interrogatories To Defendants dated February 6, 2001" to the extent applicable to these Specific Interrogatories.

Preemption

8. Brown & Williamson objects to these Specific Interrogatories on the grounds that Plaintiff seeks information regarding the advertising, marketing, or promotion of cigarettes after July 1, 1969, as such information relates to claims that are preempted by the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-41. *See Cipollone v. Liggett Group, Inc.*, 505 U.S. 504 (1992).

Time Period

9. Brown & Williamson objects to the Specific Interrogatories that seek "current" or "present" information on the grounds that they violate the provisions of CMO9, are overly broad,

unduly burdensome, and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Brown & Williamson will disclose information consistent with the applicable discovery period imposed by the governing orders in this case.

Third Party

10. Brown & Williamson objects to these Specific Interrogatories to the extent that they seek information or documents in the possession of third parties on the grounds that such Specific Interrogatories are overly broad or unduly burdensome.

Definitions

11. Brown & Williamson objects to the phrase "each person" as used throughout these Specific Interrogatories as being overly broad, unduly burdensome, and vexatious. Plaintiff's definitions of the terms "each" and "person" would require Brown & Williamson to identify every person and/or entity for a fifty year period who has any knowledge of or was in any way involved with the subject matter of these Specific Interrogatories without regard for the amount, relevance, or materiality of their information or involvement. As such, the burden and expense of obtaining and producing the information sought substantially outweighs any probative value that information may have in resolving issues in this litigation.

12. Brown & Williamson objects to the phrases "all information," "all facts," "all reasons," "all communications," and "each document or communication" as used in these Specific Interrogatories as being overly broad, unduly burdensome, harassing, and oppressive. These Specific Interrogatories seek to impose upon Brown & Williamson the burden of exhaustively searching all of its files and every department in an attempt to locate each and every document that might potentially be responsive to a Specific Interrogatory. Brown & Williamson

will identify information responsive to these Specific Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure and the governing orders in this case.

13. Brown & Williamson objects to Plaintiff's definition of the term "identify" as used throughout these Specific Interrogatories as being overly broad, unduly burdensome, harassing, and oppressive. Brown & Williamson will identify information responsive to these Specific Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure and the governing orders in this case.

14. Brown & Williamson objects to Plaintiff's definition of the term "marketing" on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that it refers to information which does not concern the marketing, advertising, and promotion of cigarettes manufactured by Brown & Williamson for sale in the United States.

15. Brown & Williamson objects to Plaintiff's definition of the phrase "environmental tobacco smoke" ("ETS") on the grounds that it is vague and ambiguous. Brown & Williamson states that the tobacco smoke to which a nonsmoker may be exposed, often referred to as ETS, is both qualitatively and quantitatively different from mainstream smoke, the smoke to which the smoker is exposed. ETS is not "cigarette smoke discharged into the atmosphere by an ignited cigarette," but is a highly diluted, aged, and chemically altered mixture of side-stream smoke and exhaled mainstream smoke.

16. Brown & Williamson objects to Plaintiff's definition of the term "addiction" on the grounds that it is overly broad, vague, and ambiguous. There is no consensus in the scientific community regarding the use of the word "addiction" or the criteria that would establish whether a substance or activity is "addictive" or whether a particular individual is "addicted." In

addition, Plaintiff's own definition and use of the word "addiction" has changed significantly over the time period covered by the Amended Complaint in this case, and various scientists, officials and employees of Plaintiff have used the term "addiction" in ways different from and contradictory to the definition announced by Plaintiff from time to time.

17. Brown & Williamson objects to the phrases "concerning" and "relating to" on the grounds that they are vague, ambiguous, overly broad, and unduly burdensome and are not reasonably calculated to lead to the discovery of admissible evidence unless intended to describe documents that discuss or refer to the specified topic. Subject to and without waiving this objection, to the extent these Specific Interrogatories seek information "concerning" and "relating to" a particular subject, pursuant to an agreement reached with Plaintiff's counsel on September 21, 2000, Brown & Williamson will treat any such Specific Interrogatory as requesting information "relating to" that particular subject as that term has been defined in certain of Defendants' Requests: "Relating to" any subject means anything that "concerns, constitutes, contains, embodies, reflects, memorializes, identifies, states, evidences, refers to, deals with, discusses, or is pertinent to the subject."

Instructions

18. Brown & Williamson objects to Plaintiff's Instruction Number 4 on the grounds that Plaintiff's request for Brown & Williamson to "[i]dentify all steps taken" with regard to Specific Interrogatories Number 9 through 14 is vague, ambiguous, overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Brown & Williamson will identify information responsive to these Specific Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure and the governing orders in this case.

* * *

Brown & Williamson's objections as set forth herein are based upon information presently known to Brown & Williamson. Brown & Williamson reserves the right, consistent with the Federal Rules of Civil Procedure or orders of this Court: (a) to rely on any facts, documents or other evidence which may develop or subsequently come to its attention; (b) to assert additional objections or supplemental responses should Brown & Williamson discover additional information or grounds for objections; and/or (c) to supplement or amend these responses at any time. These Recurring Objections are incorporated into the following Specific Objections to these Specific Interrogatories, and the Recurring Objections shall be deemed continuing as to each Specific Interrogatory and are not waived, or in any way limited, by the Specific Objections.

SPECIFIC OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1:

For the years 1950 to the present, describe your position with respect to any health effects of low "tar" cigarettes, including any changes in that position over time, identify all company research or studies relating to such position, and identify employees meaningfully involved with such position or change in position.

RESPONSE TO INTERROGATORY NO. 1:

Brown & Williamson incorporates Recurring Objections Numbers 1, 2, 3, 6, 7, 9, 13, and 17 in response to this Interrogatory. Brown & Williamson specifically objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Brown & Williamson also specifically objects to this Interrogatory on the grounds that the phrase "any health effects" is vague, ambiguous, and undefined. Additionally, Brown & Williamson specifically objects to this Interrogatory to the extent it purports to require Brown & Williamson to identify "employees meaningfully involved" in the referenced subject matter on the grounds

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UNITED STATES OF AMERICA,

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TOBACCO LITIGATION TEAM
Civil Action No. 99-CV-02496 (GHEAM)

Next Scheduled Court Appearance:
July 19, 2002

**RESPONSE OF BROWN & WILLIAMSON TOBACCO CORPORATION TO THE
UNITED STATES' FIRST SET OF REQUESTS FOR ADMISSION TO ALL
DEFENDANTS**

Pursuant to the Ninth Case Management Order dated March 26, 2001 ("CMO9"), Defendant Brown & Williamson Tobacco Corporation, individually and as successor by merger to The American Tobacco Company ("Brown & Williamson"), responds and objects to the Plaintiff United States of America's ("Plaintiff") First Set of Requests for Admissions to All Defendants (the "Requests").

RECURRING OBJECTIONS

Privileged and Otherwise Protected Documents

1. Brown & Williamson objects to these Requests on the grounds that they seek the disclosure of documents or information protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege, exemption, or immunity. Inadvertent disclosure of any documents or information shall not be a waiver of any claim of privilege, work product protection, or any other exemption.

Trade Secrets

2. Brown & Williamson objects to these Requests to the extent that they seek the disclosure of certain confidential, proprietary, trade secret, or other commercially protected information or documents. Brown & Williamson will disclose information or documents subject to the terms of the protective orders in this case.

Form and Scope

3. Brown & Williamson objects to these Requests to the extent that they attempt to impose obligations in addition to those imposed or authorized by the Federal Rules of Civil Procedure, the Local Rules of this Court, or the orders governing discovery in this case.

4. Brown & Williamson objects to these Requests on the grounds that they are overly broad, unduly burdensome, and seek information or documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent that they seek information regarding the manufacture, advertising, marketing, promotion, and sale of cigarette products not sold in the United States of America.

5. Brown & Williamson objects to these Requests to the extent that they are duplicative of previous discovery requests propounded in this case and, therefore, are harassing, vexatious, and unduly burdensome.

Preemption

6. Brown & Williamson objects to these Requests on the grounds that Plaintiff seeks information regarding the advertising, marketing, or promotion of cigarettes after July 1, 1969, as such information relates to claims that are preempted by the Federal Cigarette Labeling and

Advertising Act, codified as amended at 15 U.S.C. §§ 1331-41. *See Cipollone v. Liggett Group, Inc.*, 505 U.S. 504 (1992).

Improper Requests

7. Brown & Williamson objects to these Requests on the grounds that they improperly seek to reduce extraordinarily complicated scientific subjects to a simple affirmative or negative response.

Third Party

8. Brown & Williamson objects to these Requests to the extent that they seek information or documents in the possession of third parties on the grounds that such Requests are overly broad or unduly burdensome.

Definitions

9. Brown & Williamson objects to Plaintiff's definition of the phrase "environmental tobacco smoke" ("ETS") on the grounds that it is vague and ambiguous. Brown & Williamson states that the tobacco smoke to which a nonsmoker may be exposed, often referred to as ETS, is both qualitatively and quantitatively different from mainstream smoke, the smoke to which the smoker is exposed. ETS is not "cigarette smoke discharged into the atmosphere by an ignited cigarette," but is a highly diluted, aged, and chemically altered mixture of side-stream smoke and exhaled mainstream smoke.

10. Brown & Williamson objects to Plaintiff's definition of the term "addiction" on the grounds that it is overly broad, vague, and ambiguous. There is no consensus in the scientific community regarding the use of the word "addiction" or the criteria that would establish whether a substance or activity is "addictive" or whether a particular individual is "addicted." In addition, Plaintiff's own definition and use of the word "addiction" has changed significantly

over the time period covered by the Amended Complaint in this case, and various scientists, officials and employees of Plaintiff have used the terms "addiction" in ways different from and contradictory to the definition announced by Plaintiff from time to time.

11. Brown & Williamson objects to Plaintiff's use of the phrases "some people," "particular person," and "some members of the population" as vague and ambiguous. The risk factors associated with smoking vary for each individual and must be evaluated on an individual basis. It is not possible for Brown & Williamson to admit or deny a Request based on one individual case. Brown & Williamson responds to such Requests based on information about smoking and health as applied to the population in general.

* * * *

Brown & Williamson's objections as set forth herein are based upon information presently known to Brown & Williamson. Brown & Williamson reserves the right, consistent with the Federal Rules of Civil Procedure or orders of this Court: (a) to rely on any facts, documents or other evidence which may develop or subsequently come to its attention; (b) to assert additional objections or supplemental responses should Brown & Williamson discover additional information or grounds for objections; and/or (c) to supplement or amend these responses at any time. These Recurring Objections are incorporated into the following Specific Objections to these Requests and the Recurring Objections shall be deemed continuing as to each Request and are not waived, or in any way limited, by the Specific Objections.

REQUESTS TO ADMIT AND SPECIFIC OBJECTIONS

REQUEST TO ADMIT NO. 1:

Admit that since at least 1954 there has been a medical consensus that smoking is a risk factor for lung cancer.